

U.S. Customs Service

Treasury Decisions

19 CFR Parts 132 and 163

(T.D. 02-50)

RIN 1515-AC83

LICENSES FOR CERTAIN WORSTED WOOL FABRICS SUBJECT TO TARIFF-RATE QUOTA

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the interim rule amending the Customs Regulations that was published in the Federal Register on May 1, 2001, as T.D. 01-35. The interim rule set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for certain worsted wool fabric that is the subject of a tariff-rate quota. Such a license, issued by the U.S. Department of Commerce, is necessary in order to enable the importer to claim the in-quota rate of duty on the worsted wool fabric.

DATES: Final rule effective on August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Fitzpatrick, Office of Field Operations, (202-927-5385).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under section 501 of the Trade and Development Act of 2000 (the “Act”) (Pub. L. 106-200, 114 Stat. 251; May 18, 2000), the Harmonized Tariff Schedule of the United States (HTSUS) was amended to establish a tariff-rate quota for certain worsted wool fabrics that are entered or withdrawn from warehouse for consumption, on or after January 1, 2001.

Generally, under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher

rate, known as the over-quota rate, to imports of a product in excess of the given amount. The preferential, in-quota rate would be applicable to the product only to the extent that the aggregate in-quota quantity of the product that is entered or withdrawn for consumption is not exceeded during the quota year.

To establish the tariff-rate quota for worsted wool fabrics, subchapter 2 of Chapter 99, HTSUS, was amended by section 501(a) and (b) of the Act to add two subheadings, 9902.51.11 and 9902.51.12, respectively.

The two subheadings created by section 501(a) and (b) of the Act describe certain fabrics of worsted wool provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20 and 5112.19.90, HTSUS. Since the passage of the Act, the President issued Presidential Proclamation 7383 (December 1, 2000). The Annex to that Presidential Proclamation provided, in pertinent part, for the following HTSUS substitutions, effective on or after January 1, 2001:

Subheading 5112.11.20 is replaced by subheadings 5112.11.30 and 5112.11.60; and

Subheading 5112.19.90 is replaced by subheadings 5112.19.60 and 5112.19.95.

Further, it is noted that HTSUS subheadings 5111.11.70 and 5111.19.60 do not provide for worsted wool fabric so fabrics described in those subheadings would not meet the description of fabrics that could fall under the tariff rate quota.

Accordingly, the tariff rate quota is applicable to certain fabrics of worsted wool provided for in subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95, HTSUS, that are described in and entered under subheadings 9902.51.11 and 9902.51.12, HTSUS.

ADMINISTRATION OF TARIFF-RATE QUOTA BY U.S. DEPARTMENT OF COMMERCE

In implementing the in-quota limits on the quantities of worsted wool fabric that may be entered or withdrawn for consumption subject to the reduced tariffs afforded by subheadings 9902.51.11 and 9902.51.12, the U.S. Department of Commerce was delegated the authority under section 501(e) of the Act to fairly apportion these in-quota quantities among those persons, including firms, corporations and other legal entities, in the United States, who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers. This delegation of authority to the Department of Commerce was effected by Presidential Proclamation No. 7383 of December 1, 2000.

Accordingly, the Department of Commerce issued regulations setting up a program for the allocation of the aggregate in-quota quantity established, respectively, for subheadings 9902.51.11 and 9902.51.12 (15 CFR 335.1-335.7; see Federal Register dated January 22, 2001 (66 FR 6459)).

In pertinent part, under this program, the usage of the quota is allocated to U.S. suit-makers by virtue of licenses issued to them by the Department of Commerce. Each license is issued for a stated quantity of fabric and is required to have a unique control number. A suit-maker

who has been issued such a license (a licensee) may enter worsted wool fabric under subheading 9902.51.11 or 9902.51.12 at the related in-quota rate of duty, up to the amount authorized in the license.

However, if the importer of record is not the licensee, the importer must have received an authorization from the licensee to act on its behalf, in order to be entitled to the in-quota rate of duty. The licensee may only authorize an importer to import fabric under the license on its behalf by making such an authorization in writing or by an electronic notice to the importer and by providing a copy of such authorization to the Department of Commerce. This authorization must include the unique control number of the license; it must specifically cover the fabric being imported; and it must be in the possession of the importer at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501), or its electronic equivalent, in order for the importer to be eligible for the applicable in-quota rate of duty.

CORRESPONDING CUSTOMS RULEMAKING

In accordance with the rulemaking of the Department of Commerce, Customs issued an interim rule that was published in the Federal Register (66 FR 21664) on May 1, 2001, as T.D. 01-35. The interim rule added a new § 132.18 to the Customs Regulations (19 CFR 132.18) in order to prescribe the form and manner by which an importer establishes that a valid license exists for worsted wool fabric subject to the tariff-rate quota that is entered under HTSUS subheading 9902.51.11 or 9902.51.12. In particular, the unique control number assigned to the license must be referenced on the entry summary or warehouse withdrawal for consumption, or its electronic equivalent, in order to entitle the importer to claim the in-quota rate of duty on the worsted wool fabric.

In addition, the interim rule revised the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix) to make reference to the license or written authorization required under new § 132.18. The (a)(1)(A) List provides a listing of the records and information required for the entry of merchandise.

A document published in the Federal Register (66 FR 27453) on May 17, 2001, set forth a correction to the interim rule regarding its effective date. As noted above, the rule applies to products that are entered, or withdrawn from warehouse, for consumption on or after January 1, 2001.

No comments were received from the public in response to the interim rule, and Customs has now determined to adopt the interim rule as a final rule without change.

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866 AND INAPPLICABILITY OF DELAYED EFFECTIVE DATE

This final rule implements a preferential tariff benefit in favor of the importing public; it provides a necessary and reasonable means for carrying out this preferential tariff benefit; and it closely parallels existing regulatory provisions that implement similar trade preference programs. Accordingly, it has been determined, pursuant to 5 U.S.C.

553(d)(3), that a delayed effective date is not required. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Nor does this final rule result in a “significant regulatory action” as specified in E.O. 12866.

PAPERWORK REDUCTION ACT

The collections of information concerning the interim rule had already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515–0065 (Entry summary and continuation sheet) and 1515–0124 (General recordkeeping and record production requirements). The interim rule did not make any material change to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

LIST OF SUBJECTS

19 CFR Part 132

Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

AMENDMENTS TO THE REGULATIONS

Accordingly, the interim rule amending parts 132 and 163, Customs Regulations (19 CFR parts 132 and 163), which was published in the Federal Register at 66 FR 21664 on May 1, 2001, is adopted as a final rule without change.

ROBERT C. BONNER,
Commissioner of Customs.

Approved: August 26, 2002.

GORDANA S. EARP,

Acting Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, August 30, 2002 (67 FR 55722)]

19 CFR Part 122

(T.D. 02-51)

RIN 1515-AD01

RE-USE OF AIR WAYBILL NUMBER ON AIR CARGO MANIFEST

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to air commerce to provide that once an air waybill number is used on an air cargo manifest, one year must elapse before the same air waybill number may be used on another air cargo manifest. Current regulations prohibit the re-use of an air waybill number for three years after it is used on an air cargo manifest. This document also specifies that air cargo manifests must reference an 11-digit air waybill number for each air waybill it covers.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Scholtens, Trade Programs, Office of Field Operations: (202) 927-3459.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The requirements for aircraft entry and entry documents are set forth in Subpart E of Part 122 of the Customs Regulations (19 CFR Part 122; § 122.41 *et seq.*). Under § 122.41 of the regulations (19 CFR 122.41), all commercial aircraft coming to the United States from a foreign area (with certain exceptions not relevant here) must make entry. Section 122.48 (19 CFR 122.48) provides that an air cargo manifest covering all cargo on board must be filed with the general declaration for any aircraft required to make entry under § 122.41. Section 122.48(c) pertains to the air cargo manifest form (Customs Form 7509) and the information it must contain which includes an air waybill number for each air waybill covered by the manifest. The number of air waybills covered by the manifest depends on the number of air waybills that are associated with the cargo on board. This number will vary from aircraft to aircraft, depending on the number of shipments on board (including consolidated shipments).

Thus, whenever a commercial aircraft arrives from a foreign place and makes entry as required under the regulations, it must submit to Customs a manifest containing the appropriate air waybill numbers. (See also 19 U.S.C. 1431, 1433, 1434, 1644, and 1644a pertaining to vessel and air cargo manifests.)

Section 4.7a(c)(2)(iii), Customs Regulations (19 CFR 4.7a(c)(2)(iii)), concerning vessel manifests provides that bills of lading must have

unique identifier numbers, that the numbers must be listed on vessel manifests, and that the identifier numbers may not be duplicated within a 3-year period. Section 122.2, Customs Regulations (19 CFR 122.2), provides that, except as otherwise provided for in the Customs Regulations, the customs laws and regulations applicable to vessels are also applicable to aircraft. (Section 122.2 implements 19 U.S.C. 1644a(b)(1)(E), under which Customs is authorized, by regulation, to apply to civil aircraft the laws and regulations concerning the entry and clearance of vessels.) Air waybills in the air commerce environment are analogous to bills of lading in the vessel commerce environment. Because the time frame in which an air waybill identifying number may be duplicated is not otherwise provided for in the Customs Regulations, § 4.7a(c)(2)(iii), in conjunction with § 122.2, sets the time frame; once an air waybill number is used on an air cargo manifest, that number may not be duplicated within a 3-year period.

Customs reconsidered the three-year restriction on the re-use of air waybill numbers and, on March 1, 2002, Customs published a notice of proposed rulemaking (NPRM) in the Federal Register (67 FR 9423) proposing that § 122.48(c), Customs Regulations, be amended to allow an air waybill number to be reused after only a one-year time period. In the NPRM, Customs explained that the change was being considered in conjunction with Customs efforts to improve its internal automated information systems relative to the tracking, archiving, and auditing of shipments by use of manifest numbers. Customs also noted that the huge volume of importations is affecting the availability of usable numbers for air cargo manifests. (The three-year restriction of § 4.7a(c)(2)(iii) on the re-use of bill of lading numbers was not proposed to be changed by this proposal.)

The NPRM also proposed to amend § 122.48(c) to specify that the air waybill number referenced on the air cargo manifest must be an 11-digit number. This number is based on a standard International Air Transport Association format.

COMMENTS

The comment period set forth in the NPRM ended on April 30, 2002. Only one comment was received.

Comment:

The comment recommended that Customs adjust its Automated Manifest System (AMS) programming to accommodate the proposed change for reuse of air waybill numbers from three years to one year.

Customs response:

Customs is working on programing changes that will be operational by the time the amended regulation takes effect.

CONCLUSION

As the only comment received raised an issue that Customs is in the process of resolving, upon further consideration by Customs, this docu-

ment adopts as final the amendments to the regulation that were proposed on March 1, 2002.

EXECUTIVE ORDER 12866

This document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

REGULATORY FLEXIBILITY ACT

Inasmuch as the amendment adopted in this document regarding the one-year time restriction on re-use of air waybill numbers represents a loosening of the restriction on importers’ use of such numbers, it is certified, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this amendment to the Customs Regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

DRAFTING INFORMATION

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices contributed in its development.

LIST OF SUBJECTS IN 19 CFR PART 122

Air cargo, Air cargo manifest, Air carriers, Aircraft, Air transportation, Customs duties and inspection, Entry procedure.

AMENDMENTS TO THE REGULATIONS

For the reasons stated in the preamble, Part 122 of the Customs Regulations (19 CFR Part 122) is amended as follows:

PART 122—AIR COMMERCE REGULATIONS

1. The general authority citation for part 122 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

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2. Section 122.48 is amended by revising paragraph (c) to read as follows:

§ 122.48 Air Cargo Manifest.

* * * * *

(c) *Form.* The air cargo manifest, Customs Form 7509, must contain all required information regarding all cargo on board the aircraft, except that a more complete description of the cargo shipped may be provided by attaching to the manifest copies of the air waybills covering the cargo on board, including, if a consolidated shipment, any house air waybills. When copies of air waybills are attached, the statement “Cargo as per air waybills attached” must appear on the manifest. The manifest

must reference an 11-digit air waybill number for each air waybill it covers. The air waybill number must not be used by the issuer for another air waybill for a period of one year after issuance.

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ROBERT C. BONNER,
Commissioner of Customs.

Approved: August 27, 2002.

TIMOTHY E. SKUD,

Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, August 30, 2002 (67 FR 55720)]